

Exhibit V1      Cause #

### 31A Am. Jur. 2d Extortion, Blackmail, etc. § 9

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Extortion, Blackmail, and Threats

Lucas D. Martin, J.D.

#### II. Extortion by Public Officer

### § 9. Color of office

[Topic Summary](#) | [Correlation Table](#) | [References](#)

#### West's Key Number Digest

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In order to constitute extortion, the taking must take place under color of office—that is, under the pretense that the officer is entitled to the fee by virtue of his or her office.<sup>1</sup> This requires that the service rendered must be apparently, or pretended to be, within official power or authority, and the money must be taken in such apparent or claimed authority.<sup>2</sup> An officer cannot be charged and convicted of an act which is entirely outside the scope of his or her legal duties.<sup>3</sup>

If a person, who happens to be a public officer, renders a service for another and demands payment in a private capacity, such person cannot be guilty of extortion since the demand was not made under color of office.<sup>4</sup>

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#### Footnotes

<sup>1</sup> *La Tour v. Stone*, 139 Fla. 681, 190 So. 704 (1939); *Adler v. Sheriff, Clark County*, 92 Nev. 641, 556 P.2d 549 (1976); *Com. v. Froelich*, 458 Pa. 104, 326 A.2d 364, 70 A.L.R.3d 1146 (1974); *Com. v. Tiberi*, 239 Pa. Super. 152, 361 A.2d 318 (1976).

<sup>2</sup> *State v. Savoie*, 67 N.J. 439, 341 A.2d 598 (1975); *State v. Begyn*, 34 N.J. 35, 167 A.2d 161 (1961); *State v. Matule*, 54 N.J. Super. 326, 148 A.2d 848 (App. Div. 1959).

Convictions for extortion and conspiracy to commit extortion were supported by evidence that the legislator assured an aide that he would assist a bill through the state senate after being informed that the aide had suggested a campaign contribution of \$20,000 from an undercover FBI agent posing as a person interested in seeking a change in state law. *U.S. v. Carpenter*, 961 F.2d 824 (9th Cir. 1992).

<sup>3</sup> *Raines v. State*, 65 So. 2d 558 (Fla. 1953).

<sup>4</sup> *State ex rel. Bourg v. Marrero*, 132 La. 109, 61 So. 136 (1913); *State v. Savoie*, 67 N.J. 439, 341 A.2d 598 (1975); *Com. v. Francis*, 201 Pa. Super. 313, 191 A.2d 884 (1963).

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